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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,490	06/21/2002	Robert A. Dear	1550/40183	7438

7590 08/28/2003  
Trexler Bushnell  
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EXAMINER

DURAND, PAUL R

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 08/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application N .

10/089,490

Applicant(s)

DEAR ET AL.

Examiner

Paul Durand

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 12-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-14 and 16-20 is/are rejected.
- 7) ☒ Claim(s) 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 June 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: reference numbers 29,39 and 45 are missing from figure 4 and . A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to because it appear that figure 4 has four figures. However there are only figure numbers 4A,4B and 4C. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

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4. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

**Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or  
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (e) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) BRIEF SUMMARY OF THE INVENTION.
- (g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (h) DETAILED DESCRIPTION OF THE INVENTION.
- (i) CLAIM OR CLAIMS (commencing on a separate sheet).
- (j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

5. The disclosure is objected to because of the following informalities: the specification does not contain the headers for each section as listed above.

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 12-14 and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joux (WO/65630) in view of Vogelsanger (US 5,953,822).

In regard to claims 12 and 13, Joux discloses the invention as claimed including a hand held riveting tool, with a motor 21, pump 22, valves 24 and 25, hydraulic circuit 26 and 27 and trigger 20, that closes the hydraulic valves and operates a motor when the trigger is engaged and also opens the circuit and shuts off the motor when the trigger is disengaged (see Fig.2 and Pg. 8, L19 – Pg. 9, L31). What Joux does not disclose is the use of a battery to operated the motor driving the hydraulic pump. However, Vogelsanger teaches that it is old and well known in the art of hydraulically operated hand tools to provide a battery 36, powering motor 25, that drives a hydraulic pump 26 to move fluid from a manifold that also functions as a reservoir for the purpose of providing portable power for the operation of a tool (see Fig. 2 and C2, L62 – C4, L10). Therefore, it would have been obvious to one having ordinary skill in the art to have provided the invention of Joux with the power means as taught Vogelsanger for the purpose of providing portable power for the operation of a tool.

In regard to claim 14, While Joux does not discloses the specifics of the valves as it pertains to pressure relief, the examiner takes Official Notice that it old and well

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known in the art of hydraulics to provide a valve arrangement that removes excess fluid from a working area of the fluid for the purpose of reducing tool failure and increasing safety to the user. Therefore it would have been obvious to one having ordinary skill in the art to have modified the invention of Joux with the pressure relief means for the purpose of reducing tool failure and increasing safety to the user.

In regard to claim 16, Joux discloses the invention substantially as claimed including an apparatus for blind stem rivets (see abstract).

In regard to claims 17 and 18, Joux discloses the invention substantially as claimed including an riveting apparatus that returns the riveting head 29 to an initial position after operation has the trigger has been returned to an off position by the use of spring 30 (see Fig. 2).

In regard to claim 19, Joux discloses the invention substantially as claimed including a motor that turns in only one direction when the motor is in use.

8. Claims 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Joux in view of Vogelsanger and in further view of Cooper (US 3,502,028).

Joux discloses the invention substantially as claimed except for the specific use of a hydraulically reciprocated pump. However, Cooper teaches that it is old and well known in the art of hydraulic actuation to provide a reciprocating pump 14 for the purpose of hydraulically operating a tool (see Fig. 1 and C2, L7-12). Therefore it would have been obvious to one having ordinary skill in the art to have modified the invention of Joux with the reciprocating pump as taught by Cooper for the purpose of hydraulically operating a tool.

***Allowable Subject Matter***

9. Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Miklos, Yasui et al, Gutelius et al, Kimura, Swanson et al and Weiland have been cited to show devices having similar structure.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Durand whose telephone number is 703-305-4962. The examiner can normally be reached on 0730-1800, Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on 703-308-2187. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.



Rinaldi I. Rada  
Supervisory Patent Examiner  
Group 3700

Paul Durand  
August 13, 2003